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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,134	03/02/2004	Adam Fairbanks	3367.2.1	5394
28049 7590 03/07/2008 PATE PIERCE & BAIRD 175 SOUTH MAIN STREET, SUITE 1250 SALT LAKE CITY, UT 84111				
EXAMINER				
STAMBER, ERIC W				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/791,134

**Applicant(s)**

FAIRBANKS ET AL.

**Examiner**

KHANH H. LE

**Art Unit**

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-24 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 02 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-85/86)  
Paper No(s)/Mail Date 06/10/2004  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This Office Action is responsive to the original application. Claims 1-24 are pending. Claims 1, 13, 17 and 20 are independent.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-16, 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu US 7050990 in view of Official Notice.**

**Claims 1-4, 8, 9, 13, 15-16, 20-22:**

**Chu discloses:**

A method for collecting, calendaring, and presenting event data from independent sources, and system and apparatus to support such method, the method comprising:

providing to an advertiser access to a bidding module programmed to present a set of bid criteria selectable and ordered by an advertiser (Figure 33 and associated text) to place the advertising content on a computer of a user (Figure 1 item and associated text) during a time window and geographical area substantially arbitrarily specified by the advertiser

(Figure 1 item 108, Figure 33 and associated text; col. 52 lines 17-27) to the bidding module;

inputting data corresponding to a plurality of events (Figure 1 item 106 and associated text; listing attributes read on events; Figure 11 and associated text);

creating by a system administrator a database ( Figure 1 item 126 and associated text) containing the data to be searched, sorted, and filtered arbitrarily by a user using a corresponding database engine (Figure 1 items 118, 122, 120, 126, 142, 144 and associated text);

providing, via one or more servers (Figure 1 item 118; col. 16 lines 13-25) a user interface comprising navigational software presenting to a user a selection module to arbitrarily select and order, by a user, a set of ordered data from the data according to criteria selected and arbitrarily ordered by a user;

providing a presentation to a user comprising both advertising content (see e.g. Figures 25a-26b with ads on the right of ordered listings) and the ordered data reflecting the data as selected and ordered by a user, including comparative listings (see e.g. Figures 25a-26b ordered listings; see e.g. Figures 28a-28b ordered listings with compare button);

receiving from the advertiser, via an advertiser interface (Figure 1 item 116 and associated text), a bid for displaying the advertising content corresponding to an advertisement (Figures 2 and 33 and associated text);

comparing the bid to other bids according to comparison criteria selected by the system administrator (Figure 2 and associated text);

and presenting to a user in the geographical area (including an “economically significant boundary independent of political boundaries”, see col. 13 lines 26-30) specified by the

advertiser (e.g. Figure 33 and associated text) and through the user interface (Figure 1 item 142 and associated text), an advertisement corresponding to the advertising content in conjunction with the ordered data (see e.g. Figures 25a-26b with ads on the right of ordered listings).

**Chu does not specifically disclose calendaring or list of events data returned to user/requester.**

However, it is noted calendaring may be interpreted as a list of events. Further “events” or calendaring data are **non-functional descriptive material** that does not change the method step, therefore given little if any patentable weight. Here ordered lists of data are presented to information requesters. It does not matter that the data is “events” or calendaring data or not.

**In the alternative, if “events” or calendaring data need be given patentable weight to, it would have been obvious** to a person having ordinary skill in the art at the time the invention was made (herein a “PHOSITA”) to substitute to any requested data by a user, events or calendaring data, if the goal is to obtain such data.

List of events or calendaring data and functionalities to support their delivery are well-known at the time of the invention. (See e.g. the following admitted art: *Specification at [0008]*”” *Meanwhile, business and advertising move ahead taking advantage of all the electronic advertising and entertainment media including radio, television, the Internet, and the like to promote advertising. Profit and not-for-profit organizations often sponsor individual websites. Those websites often contain information regarding upcoming events sponsored by, or otherwise related to, the organization whose website hosts that information. Information on calendars, event listings, and the like are provided by many organizations. Sports organizations, various entertainment venues, schools, universities, companies, political organizations, and the like all provide information about*

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*their organizations, and often list upcoming events.*

**See also** *Evite, Evite Announces Beta Launch Of Evite 2.0: The Ultimate Social Planning Destination Guide, 11 / 13/03, Pages 1-2*, <<http://www.evite.com/pages/gt/press/pressreleases/111303.jsp>> supplied by Applicant via IDS, **(herein Evite)**, which discloses list of events and calendaring (see page 1, last 2 paragraphs) ).

Thus it would have been obvious to a PHOSITA to substitute or add such lists of events, or calendaring data as taught by the admitted art or Evite above, to the lists of returned data taught by Chu if lists of events or calendaring data are desired. In that case the Chu system administrator would be called the calendar provider as claimed. The system functionalities required to support delivery of such lists of events, or calendaring data, inherent in the admitted art or Evite above, would then obviously have been added by the PHOSITA to the teachings of Chu to implement the addition and/or substitution of such lists of events, or calendaring data to the Chu system. This would read on all the limitations claimed in apparatus claims 1-4 and 13-15.

This is only a combination of old elements that have been found to be obvious by the Supreme Court in *KSR. v. Teleflex*,---See *Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in KSR International Co. v. Teleflex Inc., Federal Register / Vol. 72, No. 195 / Wednesday, October 10, 2007/Notices*, <http://www.uspto.gov/web/offices/com/sol/notices/72fr57526.pdf> (herein "Guidelines").

The Supreme Court in *KSR* also explained that an invention could potentially be obvious if it was "obvious to try," where there exists a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions. In this circumstance the Court explained that a person of ordinary skill would have good reason to pursue the known options within his or her technical grasp, and that if this pursuit leads to the anticipated success it was likely the product of ordinary skill and common

sense – not an act of innovation. Here, if there is a design need or market pressure to substitute or add lists of events, or calendaring data to Chu, the admitted art or Evite above, show an identified, and predictable solution, readily available, thus obvious to try, and therefore the product of ordinary skill and common sense – not an act of innovation.

Further, Chu discloses many attributes of the listings advertisers can specify ( see (Figure 33 and associated text) but does not specifically disclose advertisers specifying a campaign period or arbitrary time window to start and end delivery of the ads or that presentation of the search results and the ads is made during the time periods selected by the advertiser.

*(Even though, at col. 40 lines 60-62 and col. 49 lines 1-35, Chu discloses different charges to advertisers per different times frames thus arguably it suggests timing as an attribute relevant for advertisers to specify).*

However Official Notice is taken that specifying a campaign period is old and well-known to assure the ad is delivered when desired.

Thus it would have been obvious to a PHOSITA to add advertisers specifying a campaign period to Chu's many listings attributes to assure the ad is delivered when desired.

**Claims 5, 10, 14, 23, 24:**

Chu modified as above discussed discloses a system, apparatus, or method as in claims 4, 1, 13 or 22 above and further discloses :

a geographical designation less than a state (col. 13 lines 24-32) or less than a city (col.13 lines 26-31); and

wherein the bidding module further comprises an amount module to receive specification of a bid amount per click-through to be paid for advertising (col. 14 lines 1-32).

Chu modified as above discussed does not disclose specifying the time, arbitrarily, or as less than a day or a week.

However, it would have been obvious to a PHOSITA to add to Chu modified with time specification by advertisers as above discussed, specifying the time, arbitrarily, or as less than a day or a week, as desired, to meet the particular ads delivery time goals.

**Claims 6, 11:**

Chu modified as above discussed discloses a method as in claims 4 or 1 above and further discloses wherein the selection module is programmed to present advertising submitted by an advertiser other than the advertiser corresponding to the bid of highest monetary value (see e.g. col. 6 lines 62-66; col. 25 line 48 to col. 26 line 13).

**Claims 7, 12:**

Chu modified as above discussed discloses a method as in claims 6 or 1 above where advertisers specify geography (col. 13 lines 26-30; Figure 33 and associated text), and ad delivery timing. Chu further discloses advertisers specifying at least one criterion corresponding to the content of the comparative listing (e.g. categories, see Figure 33 and associated text; col. 13 lines 45-67). Thus it would have been obvious to a person having ordinary skill in the art at the time the invention was made (herein a "PHOSITA") to have all 3 criteria if desired since Chu discloses advertisers inputting attributes as desired to focus targeting as desired ( col. 12 line 65 to col. 13 line 8).

**4. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu US 7050990 in view of Official Notice as above discussed and further in view of Ryan US 6421675.**

**Claims 17-18:**

The limitations common to the independent claims discussed above are rejected on the same basis. **See discussion of claims 1-4, 13-15, 20-22 above.**

Thus Chu modified as above discussed discloses:



An article of manufacture comprising a computer readable medium storing executable and operational data structured therein, the data comprising:

an application executable on a processor to create, manage, and present an event calendar and advertising content related thereto to a user;

a database engine to store and retrieve event data corresponding to events and the event calendar presenting selected event data selected by the application;

a database storing the event data and the event calendar; a mining engine searching online publications, extracting online event data therefrom, and providing the selected event data to the database engine for inclusion in the database;

a harvester module programmed to interface with a harvester to locate, edit, and submit to the database third party event data published independently from the harvester and selected by the harvester (e.g. search engine, server 118) ;

an advertiser module programmed to interface with an advertiser to receive advertising content and bids for placement thereof in presentations to a user, the advertiser module including a bid module to specify timing and geography for presentation of the advertising content within a resolution selected arbitrarily by an advertiser;

a promoter module programmed to interface with a promoter corresponding to a promoted event to be referenced by the selected event data and effective to manage information submitted to the database reflecting the promoted event;

a consumer module programmed to interface with a user to provide at least a portion of the event calendar, the portion ordered according to sorting criteria and filtering criteria arbitrarily selected by a user to limit the event data presented to a user;

an API module programmed to interface between the application and the promoter and between the application and a distributor, each corresponding to the event data;

and a presentation module programmed to present to a user at least a portion of the event calendar, the advertising content,

and control buttons for navigating and editing (Figures 18, 21-36b and associated text; col. 44 lines 43-46) the portion of the event calendar arbitrarily in accordance with values of selection criteria selected by a user, and further interfacing the application and user to other links related to at least one of the event data and the advertising content ( see above cited Figures) .

Chu does not disclose an alert engine programmed to send to a computer of a user, based upon user criteria corresponding to a user, a notification of an alerting event among the selected events and corresponding to the user criteria.

However automatic alerts to users to apprise them of new information is well-known (see e.g. Ryan US 6421675 which discloses:

***Detailed Description Text - DETX (178):***

*As shown, in step 620, upon the entry of a user ID, the system can be activated passively, at various intervals or times (such as at each login to the search engine), by looking at which so keywords, profile types and search types, the users frequently looks at using the personal links table 174 of FIG. 5 (Table 6). For example, it may be that the user frequently looks at Rugby information as a "New Zealand, male" and looks at decay treatments as a "dentist". This information can be found from the automatic book marking table, previously referred to personal links table 174. If the user has not looked at these subjects for a certain length of time and there are new or highflying information sources, the user will be automatically notified of*

*these new information sources. "*)

Thus it would have been obvious to a PHOSITA add such alerts and associated software to support their functionalities as taught by Ryan to Chu for the above advantage of informing of new information as taught by Ryan.

**Claim 19:**

Chu modified as above discussed discloses an article of manufacture as in claim 17 above and further discloses wherein the user criteria are selected by the application based upon demographic data provided by a user (col. 7 lines 13-19) .

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Bidding based on context:**

Barry (Google) US 20040015397 and 20070260508 (E/D July 2002) discloses ads bid by context, to multiple levels of content, advertisers interfaces. Also Marks 20010051911.

**Bidding based on location:**

From GoTo.com: Cheung et al (including Davis) US 20020169760 discloses search listings ordered per bids amounts. Davis 2001/0047354 and 6269361 disclose advertisers bidding interface, reports.

Singh 7231358, Chu 7050990 , Woolston 6202051 disclose search by geography , bidding etc keyword context,

Marks 20010051911 discloses bidding method and system used to prioritize advertising and search result ordered listings by both bid price and user geography (abstract; (Figure 2c); [0033]- [0039]) including bidding interface for advertisers, user interface for queries, determining distance from user to advertiser location, (abstract;

(Figure 2c); [0033]- [0039]), pricing by set fee [0028], citing GoTo.com as disclosing pricing by click-throughs [0023].

Immel US 2002/0010636 discloses exchange system, charges based on locations.

**Bidding generic:**

Buck, US 6,078,866 discloses search listings ordered per bids amounts.

Ryan US 6421675 B1 and PGPub 20060100956 (E/D= July 15, 1998); Velez 7043450; Colace 7043483; Colace 6826572; Davis 7092901 disclose bids on search keywords.

**Organizing/filtering data for searchers based on location and topics:**

Dunworth US 5930474 A discloses Internet organizer for accessing geographically and topically based information.

Porter US 6826559 discloses optimizing search results., search events, movies etc. navigational tools etc..

**Bidding interface details:**

Taylor US 7299206 discloses bidding system limiting bidders by geography.

Davis 2001/0047354 and 6269361 disclose advertisers bidding interface, reports.

**Navigational interfaces:**

Alpdemir US 20040006478 [0382] discloses flexibility in web page design and construction using html, asp, GUI and buttons, hot spots, pull-down menus, imbedded GIF files and the like as well known.

**Combination of bidding based on location and organizing/filtering data for searchers based on location and topics:**

\*Cunningham 7054857 and progeny 20060212437 disclose search by location, bidding etc keyword context, ordered lists.

Faber US 20070143182 A1 discloses Methods and Apparatuses to Provide Application Programming Interface for Retrieving Pay Per Call Advertisement.

Barnes 2003/0220835 and 20070118426 discloses location based services and wireless e-commerce, detailed modules.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Khanh H. Le/  
Examiner, Art Unit 3622  
February 28, 2008

/James W Myhre/  
Primary Examiner, Art Unit 3622